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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MEI-FANG LISA ZHANG, BAY AREA
AFFORDABLE HOUSING, LLC, XUE-
HUAN GAO, YANG-CHUN ZHANG,
CAROL JIAN DENG, and HAO LIANG,

Plaintiffs,

vs.

WEI-MAN RAYMOND TSE, RUN PING
ZHOU a.k.a. FLORA ZHOU, THERESA
WONG, JAMES YU, BILL SHU WAI MA,
MOLLY LAU, VICTOR SO, JIAN XIAO,
CHRIST INVESTMENT SERVICE INC.,
CIS SERVICE, INC., PACIFIC BEST
GROUP LTD. a.k.a. PACIFIC BEST
COMPANY LTD., and SOUTH CHINA
INVESTMENT INC.,

Defendants.

Case No.: C-07-04946 JSW
(Related to C-05-02641 JSW)

**PLAINTIFFS' REPLY IN SUPPORT OF
MOTION TO DISMISS
COUNTERCLAIM OF DEFENDANT
RUN PING ZHOU FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED (FED. R.
CIV. P. 12(b)(6))**

Date: August 29, 2008

Time: 9:00 a.m.

Courtroom: 2, 17th Floor

REPLY ARGUMENT

Defendant RUN PING ZHOU's Opposition to Plaintiffs' Motion to Dismiss Her Counterclaim makes clear that she has no viable potential claim for relief against any of the plaintiffs, and that her Counterclaim must be dismissed without leave to amend.

1 Rather than articulate any facts that she could allege in support of a claim against
 2 Plaintiffs, Defendant Zhou, who has been sued and enjoined on two occasions by state and
 3 federal regulators for foreign currency fraud, simply argues that “the evidence shows that Mei-
 4 Fang Lisa Zhang told a lie” and that Ms. Zhang purportedly violated the “Consent Order.”
 5 (Opposition of Run Ping Zhou at 1, filed on July 3, 2008).

6 Even if true, Ms. Zhou’s unsworn allegations concerning plaintiff Mei-Fang Lisa Zhang
 7 do not entitle her to any relief.¹ Ms. Zhou fails to state how *she* has suffered any damages or
 8 injury as a result of this purported “violation” of the “Consent Order.” Defendant Zhou must
 9 bring claims for her own injuries and lacks standing to bring claims on behalf of others for
 10 alleged violations of the Consent Order. *See, e.g., Toxic Injuries Corp. v. Safety-Kleen Corp.*
 11 *57 F.Supp.2d 947, 952 (C.D. Cal. 1999).*
 12

13 The only coherent theory specified in Defendant Zhou’s counterclaim is that defendant
 14 Zhou believes she has suffered harm as a result of the complaint filed in this case. While such a
 15 claim could give rise to a claim for relief based on malicious prosecution, California law requires
 16 a plaintiff proceeding on such a tort claim to plead that the prior legal proceeding in which he or
 17 she was named as a defendant has been terminated in his or her favor. *Sheldon Appel Co. v.*
 18 *Albert & Olier, 47 Cal. 3d 863, 871, 765 P.2d 498, 501 (1989).* Obviously, Ms. Zhou cannot
 19 plead any such facts, because she has not won this lawsuit.

20 Accordingly, the Court should dismiss her counterclaim without leave to amend.

21 Respectfully Submitted,

22 COOKE, KOBRICK, & WU LLP

23 Dated: July 14, 2008

24 By: /s/
 25 CHRISTOPHER C. COOKE
 26 Attorneys for Plaintiffs

27 _____
 28 ¹ Obviously, plaintiff Mei-Fang Zhang, a victim of defendants’ foreign currency scam who lost
 thousands of dollars due to defendants’ fraudulent activities, vigorously denies such charges.